



Billing Code: 7565-01-P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 514

Fees

AGENCY: National Indian Gaming Commission.

ACTION: Correcting amendment.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) corrects its fee regulations in order to reference the Commission's recently finalized appeal rules contained in another subchapter.

DATES: Effective Date: [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100-497, 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established an agency funding framework whereby gaming operations licensed by tribes pay a fee to the Commission for each gaming operation that conducts Class II or Class III gaming activity that is regulated by IGRA. 25 U.S.C. 2717(a)(1). These fees are used to fund the Commission in carrying out its statutory duties. Fees are based on the gaming operation's

assessable gross gaming revenues, which are defined as the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures. 25 U.S.C. 2717(a)(6). The rate of fees is established annually by the Commission and is payable on a quarterly basis. 25 U.S.C. 2717(a)(3). IGRA limits the total amount of fees imposed during any fiscal year to .08 percent of the gross gaming revenues of all gaming operations subject to regulation under IGRA. Failure of a gaming operation to pay the fees imposed by the Commission's fee schedule can be grounds for a civil enforcement action. 25 U.S.C. 2713(a)(1). The purpose of part 514 is to establish how the NIGC sets and collects those fees, to establish a basic formula for tribes to utilize in calculating the amount of fees to pay, and to advise tribes of the potential consequences for failure to pay the fees.

On February 2, 2012, the Commission published a final rule amending part 514 to provide for the submittal of fees and fee worksheets on a quarterly basis rather than bi-annually; to provide for operations to calculate fees based on the gaming operation's fiscal year rather than a calendar year; to amend certain language in the regulation to better reflect industry usage; to establish an assessment for fees submitted 1-90 days late; and to establish a fingerprinting fee payment process. 77 FR 5178, Feb. 2, 2012. In its final rule, the Commission also provided tribes with rights to appeal proposed late fee assessments in accordance with 25 CFR part 577.

On September 25, 2012, the Commission published a final rule consolidating all appeal proceedings before the Commission into a new subchapter H (Appeal Proceedings Before the Commission), thereby removing former parts 524, 539, and 577. 77 FR 58941,

Sept. 25, 2012. Thus, any reference in part 514 to appeal rights in former part 577 is obsolete and must be revised to reference the new subchapter H.

Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by 44 U.S.C. 3501, et seq., and assigned OMB Control Number 3141-0007. The OMB control number expires on November 30, 2015.

Text of the Rules

For the reasons discussed in the Preamble, the Commission amends its regulations at 25 CFR part 514 as follows:

PART 514—FEES

1. The authority citation for part 514 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2710, 2717, 2717a

2. In part 514, revise all references to “part 577” to read “subchapter H”.

Dated: January 14, 2013.

Tracie L. Stevens,
Chairwoman

Daniel J. Little,
Associate Commissioner

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